

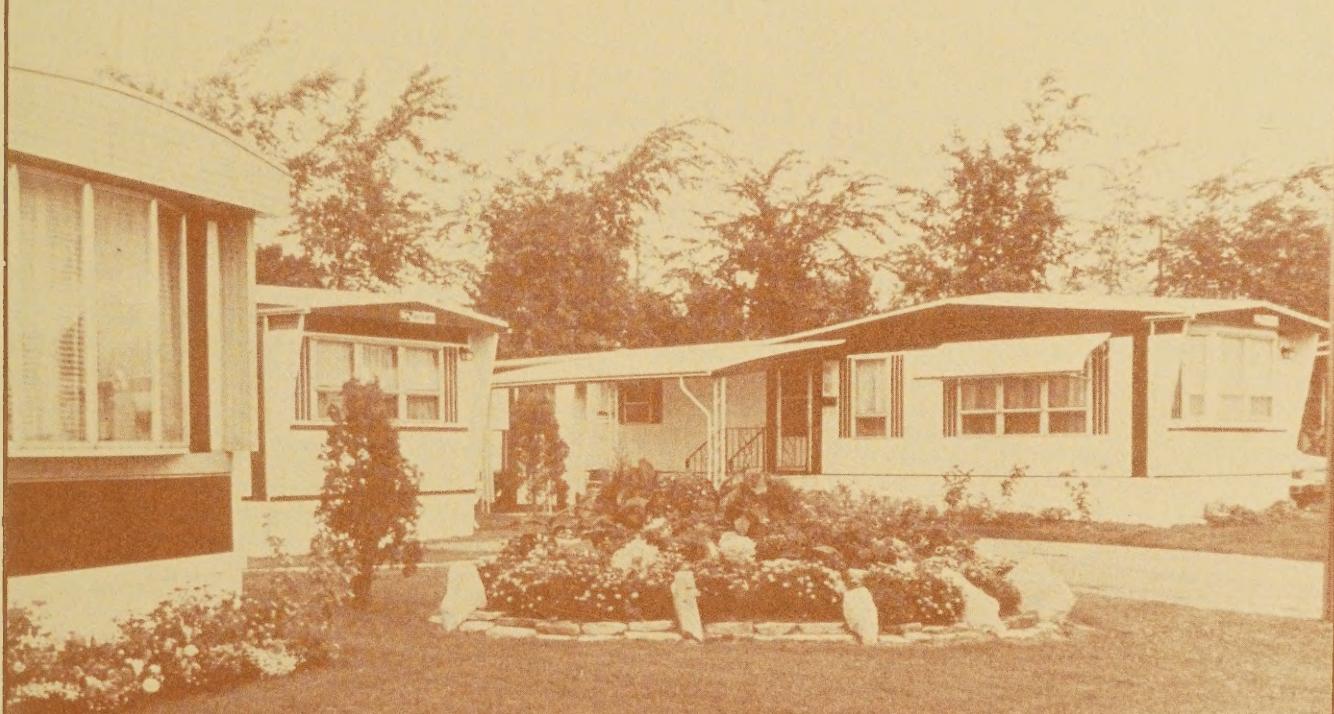
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Ministry of
Municipal Affairs
and Housing

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MOBILE HOMES IN UNORGANIZED TERRITORIES



**A GUIDE FOR PLANNING BOARDS
IN ENFORCEMENT OF SECTION 42
OF THE PLANNING ACT**

September, 1981

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Operations Control Branch
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MOBILE HOMES IN UNORGANIZED TERRITORIES

A GUIDE FOR PLANNING BOARDS IN ENFORCEMENT OF SECTION 42 OF THE PLANNING ACT

1. Introduction

Section 42 of The Planning Act prohibits the placement of more than one mobile home on a lot unless the land has been properly zoned. In unorganized territories, the land must be zoned by an order made by the Minister of Municipal Affairs and Housing under section 35 of The Planning Act. Section 42 is specifically aimed at areas without adequate zoning controls for mobile homes and is intended to prevent the haphazard location of mobile home developments. This guide has been written to assist planning boards in the enforcement of this legislation.

2. Legal Framework*

Section 42 (1) (a): A mobile home is defined as "any dwelling that is designed to be made mobile, and constructed or manufactured to provide a permanent residence for one or more persons, but does not include a travel trailer or tent trailer otherwise designed". The legislation does not apply to recreational vehicles, but only to mobile homes (including double wides) constructed for permanent residential accommodation.

Section 42 (1) (b): A parcel of land is any piece of land in separate ownership that can be sold without obtaining consent under section 29 of The Planning Act. It can also be a lot on a registered plan of subdivision.

Section 42 (2): No person may be responsible for erecting or locating more than one mobile home on a parcel of land in an unorganized territory unless authorized by an order made by the Minister of Municipal Affairs and Housing under section 35 of The Planning Act. The addition of further mobile home units, and the removal and replacement of units is also prohibited. Approvals received from other agencies (e.g. Ministry of the Environment, Health Unit, Ministry of

Natural Resources, Ministry of Transportation and Communications, Ontario Hydro) do *not* exempt either an owner or tenant from this requirement.

Section 42 (3): Mobile homes installed and occupied prior to June 1, 1977 are not affected as long as they continue to be used for the same purpose and they have remained in the same location. All mobile homes placed on a parcel of land after this date must comply with the legislation.

Section 42 (4): The land owners as well as the owners and occupants of mobile home units established in contravention of section 42 are subject to fines of up to \$1,000.

Section 42 (5): In addition, a court order may be made to require removal of all illegally placed units. Such an action may be initiated by the Minister, any resident of the unorganized territory where the contravention has taken place or an adjoining municipality, or any ratepayer of an adjoining municipality.

Enforcement Procedures

In unorganized areas, violations may be prosecuted if no zoning order is imposed or the requirements of an existing order are not adhered to. To ensure effective enforcement of section 42, planning boards should monitor the placement and use of new mobile home developments and advise the ministry of any contraventions as soon as they occur.

3.1 Role of Planning Board

When an infraction is noted, the following action is suggested.

3.1.1 Letters to Owner and Tenant

A letter should be sent immediately by registered mail or delivered by hand to the owner of the mobile home development

*NOTE: For accurate reference, consult R.S.O. 1980.

(and to the occupant of the mobile home if other than the owner) advising him of the requirements of section 42 and that he is in violation of that requirement. The procedures for applying for a zoning order or a zoning order amendment should be outlined and the owner asked to contact the planning board for further information. If the contravention continues, a stop work order may be served (section 3.2.1.) which orders that the placement of the mobile homes cease and that legal action may be taken.

3.1.2 Documentation

So that appropriate action can be taken, planning boards must keep an account of the facts concerning the contravention, noting dates and details. To assist, the following list of information has been prepared. A report containing as much of the information as possible should be submitted to the Community Planning Review Branch of the Ministry of Municipal Affairs and Housing as soon as it is apparent that the violation is continuing. (If assistance is necessary, please contact the local Community Planning Advisory Branch office.)

1. description of violation
 - (i) nature of the violation
2. location of property
 - (i) a legal description
 - (ii) a key map
 - (iii) a statement of where the key map originated (i.e. who prepared it)
 - (iv) name of the key map, and/or map number, if any
3. owner/person
 - (i) name of owner of the land or
 - (ii) the person carrying out the violation, if other than the owner
4. land use controls in effect
 - (i) zoning order under section 35 of The Planning Act
 - (a) regulation number
 - (b) date filed with the registrar of regulations
 - (c) date lodged in land registry office
 - (d) copy of notice given

- (ii) official plan coverage
 - (a) name and status of official plan coverage
 - (b) date of official plan approval
 - (c) date the official plan was lodged
 - (d) number and status of any amendments affecting this matter
 - (e) complete examination of the official plan as it applies to the subject property
- (iii) other land use controls (e.g. section 17 Public Lands Act orders)
 - (a) date imposed
 - (b) if revoked, date thereof
5. how violation noted
 - (i) a statement of how the violation was brought to the attention of planning board (i.e. monitoring by planning board, complaints from neighbors—names, dates, letters, documentation of telephone calls)
 - (ii) date the violation was brought to the attention of planning board. (It should be noted that informers may be called as witnesses in the event of legal action.)
6. photographs
 - (i) original photographs of the violation
 - (ii) date taken
 - (iii) name and position of person who took them
7. site visits
 - (i) dates
 - (ii) description of all mobile homes on the property
 - (iii) additional site visits (to ensure that the contravention has been continuing)
 - (iv) any change/alteration in use
8. placement/occupancy dates
 - (i) date the preparation of the site for the placement of the mobile home(s) began
 - (ii) date the placement began
 - (iii) date the occupancy of the mobile home was first noticed
 - (iv) evidence of the above, including advertisements, telephone listings, photographs of signs, personal contacts, etc.

9. hook-up of utilities
 - (i) date of hydro hook-up
 - (ii) date of telephone hook-up
10. action taken by planning board to have the contravention discontinued
 - (i) date of warning letters
 - (ii) method of delivery
 - (iii) name and position of person who delivered letters
11. permits/approvals issued by other agencies
 - (i) any other applications made for consent, zoning order amendment, access permits, health unit approval, sign permits, hydro hook-up, etc.
 - (ii) date of approval or refusal from those agencies
 - (iii) nature of approval or refusal (copy of decision, if possible)
 - (iv) conditions of approval (a copy should be provided, if possible).
12. contraventions of any other land use controls (e.g. zoning order, section 17 order)

3.2 Role of Ministry of Municipal Affairs and Housing

Upon receipt of planning board's report, Ministry of Municipal Affairs and Housing staff will assess it and decide on the appropriate action to be taken after discussions with its Legal Branch and the Ministry of the Attorney General.

3.2.1 Stop Work Order

As an immediate measure, a stop work order may be served to order that the construction and/or placement cease. The effectiveness of a stop work order depends on the speed with which it is served; it is

important that it be served before the placement is completed, and/or the use established. (It is therefore important that the planning board provide the Ministry of Municipal Affairs and Housing with the necessary documentation as soon as possible.)

3.2.2

Legal Proceedings

Further remedies will be considered by the Ministry of Municipal Affairs and Housing. This may include proceeding under section 42 (4) in order to have the courts apply a fine upon establishment of the fact a contravention has occurred, or section 42 (5) of the Planning Act (the obtaining of an injunction and/or interim injunction where irreparable damage is being done.)

For further information you may contact the following offices:

Community Planning Advisory Branch,
North East Region
1191 Lansing Ave.,
Sudbury, Ontario
P3A 4C4 Telephone: (705) 560-0120

Community Planning Advisory Branch,
North West Region
435 James Street South
Thunder Bay, Ontario
P7C 5G6 Telephone: (705) 475-1651

Community Planning Review Branch,
North and East,
56 Wellesley Street West
Toronto, Ontario
M7A 2K4 Telephone (416) 965-6418



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